

LAW OF UKRAINE

On Amendments to the Law of Ukraine “On Foreign Economic Activities”

The Supreme Rada of Ukraine hereby resolves:

I. To amend the Law of Ukraine “On Foreign Economic Activities” (Vidomosti Vekhovnoji Rady Ukrainy (as amended pursuant to Law No. 2139-XII, dated 19 February 1992, VVR, 1992, No. 20, page 276, VR Resolutions No. 2330-XII, dated 12 May 1992, VVR, 1992, No. 31, page 442 No. 2489-XII, dated 23 June 1992, VVR, 1992, No. 36, page 534, Cabinet of Ministers of Ukraine Decrees No. 4-93, dated 11 January 1993, VVR, 1993, No. 12, page 107 No. 6-93, dated 12 January 1993, VVR, 1993, No. 12, page 109 No. 15-93, dated 19 February 1993, VVR, 1993, No. 17, page 184 No. 25-93, dated 17 March 1993, VVR, 1993, No. 19, page 209, Laws of Ukraine No. 3898-XII, dated 1 February 1994, VVR, dated 1994, No. 20, page 120 No. 68/95-VR, dated 15 February 1995, VVR, 1995, No. 11, page 66 No. 75/95-VR, dated 28 February 1995, VVR, 1995, No. 13, page 85 No. 82/95-VR, dated 2 February 1995, VVR, 1995, No. 14, page 90 No. 90/95-VR, dated 14 March 1995, VVR, 1995, No. 14, page 93), No. 335-XIV, dated 22 December 1998, VVR, 1999, No. 7, page 49 No. 1182-XIV, dated 21 October 1999, VVR, 1999, No. 51, page 447 No. 1595-III,, dated 23 March 2000, VVR, 2000, No. 24, page 186 No. 1807-III, dated 8 June 2000, VVR, 2000, No. 38, page 318 No. 2953-III, dated 17 January 2002, VVR, 2002, No. 17, page 121 No. 3047-III, dated 7 February 2002, VVR, 2002, No. 29, page 194 No. 362-IV,, dated 25 December 2002, VVR, 2003, No. 7, page 62 No. 762-IV, dated 15 May 2003, VVR, 2003, No. 30, page 247 No. 860-IV, dated 22 May 2003, VVR, 2003, No. 37, page 300 No. 1294-IV,, dated 20 November 2003, VVR, 2004, No. 13, page 181 No. 1315-IV, dated 20 November 2003, VVR, 2004, No. 14, page 197), having restated same as follows:

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On Foreign Economic Activities

This Law shall define the main legal and organizational principles for the conduct of foreign economic activity in Ukraine and shall be aimed to improve legal regulation of all types of foreign economic activity in Ukraine, including foreign trade, economic, scientific and technical cooperation, rendering of services in accordance with fundamentals, principles, standards and rules of the generally recognized norms and rules of international trade and obligations assumed by Ukraine under international agreements and treaties.

Section I

GENERAL PROVISIONS

Article 1. Definitions

The terms below as used in this Law shall have the following meanings:

Customs taxation – means customs duties and taxes applied on imports and exports;

“Export (export of goods)” shall mean the selling of goods by Ukrainian subjects of foreign economic activity to foreign business entities (including purchases for consideration other than money), with or without exportation of such goods through Ukraine’s customs territory;

“Export (import) of capital” means exportation outside Ukraine (importation into Ukraine) of capital in any form (funds in foreign currency, products, services, works, intellectual property rights and other non-property rights) for purposes of obtaining profits from production and other forms of business activity;

“Foreign economic activity” shall mean activity of Ukrainian business entities and foreign business entities built on mutual relations between them, which takes place both within and without Ukraine’s territory;

“Foreign economic agreement (contract)” shall mean an agreement executed in a material form between two or more subjects of foreign economic activity and their foreign counter-parties, which agreement is directed to establish, change or terminate their mutual rights and obligations in foreign economic activity;

“Import (import of goods)” shall mean the purchasing (including purchases for consideration other than money) by Ukrainian entities engaged in foreign economic activity from foreign business entities of goods, with or without importation of such goods into Ukraine’s territory;

“Foreign business entities” mean business entities or persons that have permanent places of business or permanent places of residence outside Ukraine;

“Export (import) quota” shall mean the maximum volume of a certain category of goods permitted for export from the territory of Ukraine (import into the territory of Ukraine) within a specified time period, which volume is expressed in product units or price units;

Licensing body – the central body of executive power in the field of economic policy and, within their authorities, competent body of the Crimean Autonomous Republic, structural department of oblast, Kyiv and Sevastopol municipal state administrations.

“Single (individual) license” shall mean one-time non-automatic license that has nominal nature and issued for implementation of every separate operation by a concrete subject of foreign economic activity for the period not less than that is necessary for implementation of export (import) operation;

Export (import) license - a duly executed right for export (import) of specified goods;

“Customs regulation” shall mean regulation of matters and issues related to the levying of customs duties and customs fees, customs control procedures, organization of activities of Ukrainian customs offices;

“International co-operation” shall mean collaboration of two or more business entities, among which at least one is a foreign entity, involving joint design or joint production activities, joint sales of finished products and other goods on the basis of specialization in the production of auxiliary products (spare parts, units, materials, as well as equipment that is used in complex supplies) or specialization in separate technological phases (functions) of research and development activities, production and sales, subject to co-ordination of respective programs on business activity;

“Moral damages” shall mean damage caused to personal non-property rights of entities engaged in foreign economic activity through illegal acts or inaction of other persons and which has resulted or may result in losses that may be financially expressed;

“Service” shall mean complex of measures of civil-legal nature with implementation of definite action or execution of definite activity (works, operations);

“Permanent place of residence” shall mean the place of residence, within a period for at least one year, in the territory of any country of a natural person who has no permanent place of residence in other countries, and who intends to reside within the territory of this country for an indefinite period of time, without limiting such residence by a certain objective, provided that such residence is not a consequence of performance by such person of official duties or obligations under an agreement (contract);

“Representative office of a foreign business entity” shall mean an organization or an individual that represents interests of the foreign business entity in Ukraine and has duly executed powers therefor;

“Special economic zone” shall mean a territory, within which an applicable law of Ukraine establishes and maintains a special legal regime of business activity and special procedures for application and operation of Ukrainian law;

Goods – any products; movable property (including currency values, cultural values); intellectual property rights; other non-property rights; electrical, heat and other energy, as well as vehicles, except the vehicles used exclusively for the purpose of transportation of citizens and goods through the customs border of Ukraine

“Lost profits” shall mean an income or profits, which could have been obtained by an entity engaged in foreign economic activity and which was not obtained by such an entity as a result of circumstances beyond its control, provided that the amount of the anticipated income or profits may be justified.

Article 2. Principles of Foreign Economic Activities

Ukrainian business entities and foreign business entities shall engage into foreign economic activity in accordance with effective Ukrainian law, fundamentals, principles, standards and rules of the generally recognized international norms and rules on international trade and commitments assumed by Ukraine under international agreements and treaties, and in the course of carrying out foreign economic activity shall be guided by the following principles:

The principle of sovereignty of the Ukrainian people in the realization of foreign economic activity, which principle shall consist in:

- the right of the Ukrainian people to engage in foreign economic activity on the territory of Ukraine autonomously and independently pursuant to the laws that are in effect on the territory of Ukraine;
- the obligation of Ukraine to comply consistently with all agreements and commitments of Ukraine in the area of international economic relations;

The principle of freedom of foreign economic entrepreneurship, which principle shall consist in:

- the right of entities engaged in foreign economic activity to enter freely into foreign economic relations;
- the right of entities engaged in foreign economic activity to realize foreign economic activity in any form that is not prohibited by the effective laws of Ukraine;
- the principle to apply MFN or national treatment to foreign business entities;
- the obligation to follow procedures laid down by the laws of Ukraine in the course of realization of foreign economic activity;
- the exclusive ownership right of entities engaged in foreign economic activity to all results of foreign economic activity obtained by them;

The principle of legal equality and non-discrimination, which principle shall consist in:

- legal equality of all entities engaged in foreign economic activity, as well as foreign business entities, including states, in the course of realization of foreign economic activity;
- prohibition of any actions by the State, except for those as are contemplated by this Law, which result in the limitation of rights and discrimination of entities engaged in foreign economic activity, as well as foreign business entities, due to their forms of ownership, location and other characteristics;
- inadmissibility of restrictive activities on the part of any entities engaged therein, except as otherwise provided by this Law;

The rule of law principle, which shall consist in:

- regulation of foreign economic activity exclusively by the effective laws of Ukraine;
- prohibition of use of subordinate legislation and administrative acts of local authorities that in any manner establish for entities engaged in foreign economic activity conditions less favorable than those established by the laws of Ukraine;

The principle of protection of interests of entities engaged in foreign economic activity, which shall consist in that Ukraine, as the State:

- shall ensure the equal protection of interests of all entities engaged in foreign economic activity and foreign business entities within the territory of Ukraine in accordance with the laws of Ukraine;
- shall effect the equal protection of interests of all entities engaged in foreign economic activity outside Ukraine in accordance with the rules of international law;

- shall protect state interests of Ukraine, both within the territory of Ukraine and abroad, only in accordance with the laws of Ukraine, terms and conditions of international treaties signed by Ukraine and pursuant to the rules of international law;

The principle of equivalent trading, inadmissibility of dumping in the event of exportation or exportation of goods.

Article 3. Entities engaged in Foreign Economic Activities

Entities engaged in foreign economic activity in Ukraine are as follows:

- business organizations – legal entities organized pursuant to the Civil Code of Ukraine, state-owned, communal and other enterprises organized pursuant to the Commercial Code, as well as other legal entities that carry out business activity and are registered pursuant to procedures prescribed by law;

- citizens of Ukraine, foreign nationals and stateless persons who carry out business activity and are registered pursuant law as entrepreneurs;

- structural units (divisions) of foreign business entities, which structural units (divisions) are not legal entities pursuant to the laws of Ukraine (branches, divisions etc.), but have a permanent place of business within the territory of Ukraine and are registered pursuant to procedures prescribed by law.

- other business entities contemplated by the laws of Ukraine.

Foreign economic organizations, which have the status of a legal entity and are organized in Ukraine pursuant to law by governmental authorities or local self-government authorities, may participate in foreign economic activity.

The State guarantees equal protections of and for all entities engaged in foreign economic activity.

Article 4. Types of Foreign Economic Activities

All entities engaged in foreign economic activity shall have the right to carry out any types of foreign economic activity and foreign economic operations, unless otherwise provided by law.

Types of foreign economic activity, the list of foreign economic operations carried out within the territory of Ukraine, conditions of and procedures for such operations carried out by entities engaged in foreign economic activity, as well as the list of goods (work, services) prohibited for export and import shall be specified by law.

The types of foreign economic activity, which are carried out by entities engaged into such activities in Ukraine, shall include in particular:

- export and import of goods, works, services, capital and labor force;
- scientific, scientific-technical, scientific-production, production, training and other cooperation with foreign business entities; training and education of specialists on a commercial basis;
- joint business activities by subjects of foreign economic activities and foreign business entities, including enterprises with foreign investments of all types and forms of property, implementation of joint economic transactions and joint owning of property both in Ukraine and outside;
- commodity exchange (barter) operations and other activity that is based on forms of mutual trade between entities engaged in foreign economic activity and foreign business entities;

- rent, including leasing, operations between entities engaged in foreign economic activity and foreign business entities;
- works on a contractual basis performed by natural persons of Ukraine with foreign business entities both within and without Ukraine; works of foreign natural persons on a contractual paid basis with entities engaged in foreign economic activity both within and without Ukraine;
- any other types of foreign economic activity that are not directly and exclusively prohibited by the laws of Ukraine.

Article 5. Rights to carry out Foreign Economic Activities

All entities engaged in foreign economic activity shall have equal rights to carry out any types of foreign economic activity, which are not directly prohibited by the laws of Ukraine, irrespective of forms of ownership and other characteristics.

Natural persons shall have the right to carry out foreign economic activity as from the date when they acquired the civil capacity pursuant to the laws of Ukraine. Natural persons, who permanently reside within the territory of Ukraine, shall have the said right if they are registered as entrepreneurs according to the current legislation of Ukraine. Natural persons, who do not have a permanent place of residence in Ukraine, shall have the said right if they are business entities (persons) under laws of the country in which they have the permanent place of residence or the country of their citizenship.

Legal entities shall have right to carry out foreign economic activity in accordance with their constituent documents as from the date when they acquired the status of legal entity.

Interference of governmental authorities into foreign economic activity of entities engaged into such activities in cases that are not envisaged by this Law, including by way of adoption of regulatory rules that establish conditions for the conduct of foreign economic activity worse than those provided for in this Law, shall be viewed as restrictions on the right to carry out foreign economic activity and, as such, shall be prohibited.

In case of violation of the current Laws of Ukraine that regulate the order of implementation of foreign economic activity, the subjects of foreign economic activity can be applied with sanctions in the form of temporary suspension of foreign economic activity or individual licensing procedure according to the Article 34 of the given Law.

No one of the provisions of the given Article can be interpreted as a prohibition for subjects of foreign economic activity to have between themselves any relations that do not come under the definition of foreign economic activity.

An entity engaged in foreign economic activity, who has obtained property, money, property and non-property rights and other results into ownership, shall have the right to own, enjoy and dispose of them at its/his discretion.

It shall be prohibited to take results of foreign economic activity from the owner of such results without his consent, with or without monetary compensation, except as otherwise provided by the laws of Ukraine.

Realization of foreign economic activity specified in Article 4 outside Ukraine shall also be subject to the laws of respective countries.

All entities engaged in foreign economic activity in Ukraine shall be entitled to open their representative offices within the territory of other countries in accordance with the laws of these countries.

All entities engaged in foreign economic activity shall be entitled to participate in international non-government economic organizations

Foreign business entities, which carry out foreign economic activity within the territory of Ukraine, shall be entitled to open their representative offices in Ukraine. The said representative offices shall be registered by the central agency of executive power for economic policy affairs within 60 business days from the date from the time the foreign business entities submitted documents for registration. The following must be submitted for registration of a representative office of a foreign business entity in Ukraine:

- an application for registration of the representative office, which application is drawn in free form;
- an extract from a trade (bank) registry of the country in which the foreign business entity has an officially registered office;
- a certificate from the bank with which a bank account of the applicant is officially opened;
- a power of attorney to carry out representative functions as issued in accordance with the laws of the respective country, in which the foreign business entity has an officially registered office.

The above listed documents must be notarized at the place of issuance thereof and duly legalized at consulates that represent Ukraine, unless otherwise provided by international treaties and agreements of Ukraine. Foreign business entities shall pay fees for registrations of their representative offices in the amount which is set forth by the Cabinet of Ministers of Ukraine and which must not exceed the actual costs relating to such registrations incurred by the State.

In the event that the central agency of executive power for economic policy affairs refuses to register a representative office of a foreign business entity or does not adopt a decision on this matter within the specified 60-day period, the foreign business entity may challenge such refusal with Ukrainian judicial bodies.

It shall be prohibited to require from a foreign business entity to undertake another registration (re-registration) of the previously registered representative office in the territory of Ukraine.

In the event of a change of the name, legal status, legal address or in the event of insolvency or bankruptcy of a foreign business entity, its respective representative office in Ukraine shall notify the central agency of executive power for economic policy affairs within a seven-day period.

Business activities, including foreign economic activity of foreign business entities in Ukraine, shall be regulated by the laws of Ukraine.

Article 6. Agreements (Contracts) of Entities engaged in Foreign Economic Activities and the Law applicable thereto

Entities that are parties to a foreign economic agreement (contract) must have capacity to enter into an agreement (contract) in accordance with this Law and other laws of Ukraine and/or the law of the locality where the agreement (contract) is concluded. A foreign economic agreement (contract) shall be drawn up in accordance with this Law and other laws of Ukraine, taking into account international agreements and treaties of Ukraine. When drawing up the text of a foreign economic agreement (contract), entities engaged into foreign economic activity shall be entitled to use known international customs, recommendations of international bodies and organizations, unless this is expressly and exclusively prohibited by this Law and other laws of Ukraine.

A foreign economic agreement (contract) shall be concluded in writing, unless otherwise provided by law or other effective agreements, to which binding force the Supreme Rada of Ukraine has given its consent.

Powers of a representative for entering into a foreign economic agreement (contract) may follow from a power of attorney, constituent documents, and agreements or on other grounds that are not inconsistent with this Law. Actions undertaken on behalf of a foreign entity engaged into foreign economic activity by a duly authorized Ukrainian entity engaged in foreign economic activity shall be regarded as actions of such foreign economic activity.

Entities engaged into foreign economic activity shall have a right to enter into any types of foreign economic agreements (contracts), except for those that are expressly and in exclusive form prohibited by the laws of Ukraine.

A foreign economic agreement (contract) may be declared invalid in court if it does not comply with requirements of Ukrainian laws or international agreements and treaties of Ukraine, to which binding force the Supreme Rada of Ukraine has given its consent.

The law may provide for special procedures applicable to the conclusion, performance and termination of certain types of foreign economic agreements (contracts).

The form of a foreign economic agreement shall be determined by the law of the locality where it is concluded. If requirements of Ukrainian law have been complied with, an agreement concluded abroad may not be invalidated as a result of failure to comply with the form.

The form of agreements regarding buildings and other immovable property located in the territory of Ukraine shall be determined by the laws of Ukraine.

Rights and obligations of parties to a foreign economic agreement shall be governed by the laws of the locality where it was entered into, unless otherwise agreed by the parties. The place of conclusion of the agreement shall be determined pursuant to the laws of Ukraine.

Rights and obligations of parties to foreign economic agreements (contracts) shall be determined by the laws of the country selected by the parties at the time of conclusion of an agreement (contract) or as a result of further agreement.

Absent an arrangement between parties as to the law applicable to foreign economic agreements (contracts), such agreements (contracts) shall be governed by the law of the country where is founded, has its place of residence or principal place of business a party that is:

- a seller – under a sale-purchase agreement;
- a lessor – under a property rent agreement;
- a licensor – under a licensing agreement for the use of exclusive or similar rights;
- a safekeeper (safekeeping agent) – under a safe-keeping agreement;
- a committent (consignor) – under a commission (consignment) agreement;
- a principal – under an agency agreement;
- a carrier – under an agreement for carriage;
- a forwarding agent - under an agreement for transportation and forwarding services;
- a insurer - under an insurance agreement;
- a creditor - under a loan (credit) agreement;
- a gift giver – under a gift agreement;
- a guarantor – under a guarantee agreement;
- a pledgor – under a pledge agreement.

Permanent place of business shall mean the address of an officially registered main governing body of a business entity (an entity engaged in foreign economic activity).

Foreign economic agreements (contracts) for joint production, specialization and co-operation, realization of construction/assembly works shall be governed by the law of the country where such activities are carried out or where results contemplated by the agreement (contract) are created, unless parties have agreed otherwise.

A foreign economic agreement (contract) entered into at an auction, as a result of a tender or at an exchange shall be governed by the laws of the country where the auction or the tender has been held or where the exchange is located.

Rights and obligations under foreign economic agreements (contracts) that are not specified in this Article shall be governed by the law of the country of foundation or residence or the main place of business of that party who performs such agreement (contract), which performance is of decisive importance for the agreement (contract).

When performance under a foreign economic agreement (contract) is accepted, such acceptance shall be governed by the law of the place where such acceptance is effected, unless the parties have agreed otherwise.

At that, moment of completion of an export (import) contract shall mean a point in time at which there have been fulfilled all obligations under a concluded contract, including issuance of promissory notes (bills of exchange) or execution of loan agreements.

Moment of completion of export (import) shall mean a point in time when goods have crossed the customs border of Ukraine or when title (ownership rights) to the said goods that are being exported or imported has been transferred from the seller to the buyer.

Section II

REGULATION OF FOREIGN ECONOMIC ACTIVITIES

Article 7. Fundamentals of Regulation of Foreign Economic Activities

Foreign economic activity in Ukraine shall be regulated in accordance with the principles defined by Article 2 of this Law for the purpose of:

- ensuring a balanced economy and equilibrium of the domestic market of Ukraine;
- creating incentives for progressive structural changes in the economy, including foreign economic relations of entities engaged into foreign economic activity of Ukraine;
- establishing the most favorable conditions for involvement of the economy of Ukraine into the world system of labor division, and approaching such system to market structures of developed foreign countries.

Foreign economic activity in Ukraine shall be regulated by:

- Ukraine, as the State, in the person of its bodies within the scope of their competence;
- non-government bodies managing the economy (commodity exchanges, stock, foreign currency exchanges, chambers of commerce, associations, societies and other coordination-type organizations) acting on the basis of their constituent documents;
- entities engaged into foreign economic activity themselves on the basis of applicable coordination agreements concluded between them.

Foreign economic activity in Ukraine shall be regulated by virtue of:

- laws of Ukraine;
- international agreements and treaties, to which binding force the Supreme Rada of Ukraine has given its consent;
- acts of tariff and non-tariff regulations contemplated by Ukrainian laws, which acts are issued by Ukrainian government authorities within the scope of their competence;
- economic measures of operative regulation (foreign exchange and financial, credit and other regulation) within the limits contemplated by the laws of Ukraine;
- decisions of non-government bodies managing economy, which decisions are passed in accordance with the said bodies' constituent documents within the limits of Ukrainian laws;
- agreements which are entered into between entities engaged into foreign economic activity and which are consistent with the laws of Ukraine.

It shall be prohibited to regulate foreign economic activity through acts and actions of governmental authorities and non-government bodies that are not directly provided in this section.

The following treatment for foreign business entities shall be introduced in Ukraine:

- the national regime, which means that foreign business entities have the scope of rights and duties no less than business entities of Ukraine. The national regime shall apply to all types of economic activities of foreign business entities, connected with their investments in the territory of Ukraine, and also regarding the export-import operations of foreign subjects of economic activity of those countries that are the members of economic unions together with Ukraine or members of WTO;

- the most favorable treatment, which means that foreign subjects of economic activities have the same scope of rights, preferences and privileges as to duties, taxes and fees as provided or will be provided to a foreign business entity of any other country enjoying the most favorable treatment, except for where the specified duties, taxes and fees and preferences thereon are set forth within the special treatment specified below. The most favorable treatment shall be provided in accordance with respective agreements of Ukraine and shall apply in foreign trade;

- special procedure, which is applied for the territories of special economic zones according to the Article 23 of the given Law, and also for the territories of the customs unions, which Ukraine is included in, and in case of establishment of any special procedure according to the international agreements with participation of Ukraine in accordance with the Article 24 of the given Law.

The following legal regime shall be established for foreign goods imported into Ukraine:

National Treatment: Imported goods originating in WTO Member countries shall be accorded national treatment – treated in the same manner as Ukrainian goods. National treatment shall apply with regard to internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of goods, and internal quantitative regulations requiring the mixture, processing or use of goods in specified amounts or proportions.

Most-Favored-Nation (MFN) Treatment: any advantage, favour, privilege or immunity granted to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of WTO countries and countries with which there is bilateral or regional trade agreements stipulating MFN treatment. MFN shall apply on customs duties and charges of any kind imposed on or in connection with importation and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation. Exceptions from MFN, in the form of preferences, may be granted to goods originating from countries with which Ukraine has a free trade area or customs union agreement or an interim agreement leading to the formation of free trade area or customs union within a reasonable period of time (10 years) as well as border trade and the application of Generalized System of Preferences.

Article 8. State Regulation of Foreign Economic Activities

Ukraine shall independently form the system and structure of State regulation of foreign economic activity within its territory.

State regulation of foreign economic activity shall ensure:

- protection of Ukraine's economic interests and legitimate interests of entities engaged into foreign economic activity;
- creation of equal opportunities for entities engaged into foreign economic activity to develop all types of business activity, regardless of forms of ownership, and to develop all areas of use of incomes and investments;
- promotion of competitiveness and elimination of monopolies in the area of foreign economic activity.

The State and its bodies shall have no right to interfere directly into foreign economic activity carried out by entities engaged into such foreign economic activity, except for instances when such interference is made pursuant to this Law and other laws of Ukraine.

Article 9. Bodies of State Regulation of Foreign Economic Activities

Authorities charged with State regulation of foreign economic activity shall regulate foreign economic activity within limits of their competence.

The competence of the Supreme Rada of Ukraine shall include:

- adoption, amendment and annulment of laws relating to foreign economic activity;
- approval of the main courses of foreign economic policies of Ukraine;
- ratification and denunciation of international treaties and agreements of Ukraine, and bringing of effective Ukrainian law into conformity to rules established by such treaties and agreements;
- approval of rates and conditions of taxes, customs tariffs, customs duties and customs procedures in Ukraine applicable to foreign economic activity;
- establishment of special regimes of foreign economic activity within the territory of Ukraine in accordance with Articles 23, 24 of this Law;

The President of Ukraine shall:

- under legislative initiative procedures, submit draft laws on matters of foreign economic activity to the Supreme Rada of Ukraine for consideration and adoption;
- conclude international treaties and agreements of Ukraine on matters of foreign economic activity;
- establish, re-organize and liquidate ministries and other central agencies of executive power that regulate foreign economic activity;
- control activities of the Cabinet of Ministers of Ukraine concerned with foreign economic activity;

The Cabinet of Ministers of Ukraine shall:

- organize and ensure the conduct of foreign economic activity of Ukraine pursuant to the laws of Ukraine, acts of the Ukrainian President and international treaties and agreements of Ukraine, to which binding force the Supreme Rada of Ukraine has given its consent;
- direct and co-ordinate activities of ministries, other agencies of executive power concerned with regulation of foreign economic activity; co-ordinate activities of Ukraine's trade representative offices in foreign countries;
- adopt regulatory acts on matters of foreign economic activity in instances provided by the laws of Ukraine;
- conduct negotiations on and enter inter-governmental agreements of Ukraine on matters of foreign economic activity in instances provided by Ukrainian laws on international treaties and agreements of Ukraine, ensure performance of international treaties and agreements of Ukraine on matters of foreign economic activity by all agencies of executive power subordinated to the Cabinet of Ministers of Ukraine, and shall involve other entities engaged in foreign economic activity to perform such treaties and agreements on a contractual

basis;- approve lists of goods, whose export and import are subject to licensing or are prohibited pursuant to Articles 15, 16 of this Law;

- ensure implementation of resolutions of the UN Security Council on matters of foreign economic activity.

The National Bank of Ukraine shall:

- keep and use gold and currency reserves of Ukraine and other state-owned valuables which ensure Ukraine's paying capacity;

- represent interests of Ukraine in relations with central banks of other countries, international banks and other financial and credit institutions, and enter into respective inter-bank agreements;

- regulate the exchange rate of the Ukrainian national currency vis-à-vis currencies of other countries;

- carry out other functions in accordance with the Law of Ukraine "On the National Bank of Ukraine" and the Law of Ukraine "On Banks and Banking Activities" and other Ukrainian laws. The National Bank of Ukraine may delegate functions vested therein to a foreign economic activity bank in Ukraine.

The central agency of executive power for economic policy affairs shall:

- ensure through the mechanism of the Customs-Tariff Council of Ukraine realization of unified foreign economic policies applicable to entities engaged into foreign economic activity upon their access to foreign markets, co-ordination of their foreign economic activity, including pursuant to international agreements and treaties of Ukraine;

- control the observance of current Laws of Ukraine and conditions of international agreements of Ukraine by all subjects of foreign economic activity, and in connection with that has the right to enquire and receive the information necessary for that from the central executive power authorities and other state authorities, authorities of currency control and currency regulation, agents of currency control, subjects of foreign economic activity;

- undertake measures for non-tariff regulation of foreign economic activity, in particular registration of certain types of contracts pursuant to this Law;

- carry out antidumping, anti-subsidy and special safeguard investigations according to procedures laid down by the laws of Ukraine;

- fulfil other functions in accordance with the laws of Ukraine and the enabling rules on the central agency of executive power for economic policy affairs.

The Customs Service of Ukraine shall:

- exercise customs control in Ukraine in accordance with effective Ukrainian laws.

The Antimonopoly Committee of Ukraine shall:

- control compliance by entities engaged into foreign economic activity with law on protection of economic competition.

The Interdepartmental Commission on International Trade shall:

- effect operative state regulation of foreign economic activity in Ukraine pursuant to the laws of Ukraine;

- adopt decisions relating to the initiation and conduct of antidumping, anti-subsidy or special safeguard investigations, and application respectively of antidumping, countervailing or safeguard measures.

Article 10. Local Authorities that govern Foreign Economic Activities

Local authorities that administer foreign economic shall include:

- local self-government authorities and their executive bodies;

- local State administrations;

- territorial divisions (departments) of agencies of executive power of foreign economic activity in Ukraine.

The competence of local self-government authorities in Ukraine and their executive bodies in the area of administration of foreign economic activity shall be determined by this Law and the Law of Ukraine “On Local Self-Government in Ukraine”.

Regulatory rules of local self-government authorities and their subordinated bodies with respect to regulation of foreign economic activity shall be adopted only in instances expressly provided by the laws of Ukraine.

Central agencies of executive power, whose competence includes matters of regulation of foreign economic activity in Ukraine, may establish their territorial divisions (units), if it follows from their competence that is defined by the laws of Ukraine and enabling rules on these agencies.

The competence of local State administrations in the area of administration of foreign economic activity shall be defined by this Law and the Law of Ukraine “On Local State Administrations”.

Article 11. Principles of Taxation and Regulation of Trade Relations in Foreign Economic Activities

Entities engaged into foreign economic activity in Ukraine shall be taxed according to the following principles:

- Ukraine shall independently establish and cancel taxes for entities engaged into subjects of foreign economic activity in Ukraine;
- tax rates shall be set forth and repealed by the Supreme Rada of Ukraine upon submission of the Cabinet of Ministers of Ukraine;
- it shall be prohibited to establish other taxes, except for those approved by the Supreme Rada of Ukraine;
- tax rates shall be the same for all subjects of foreign economic activities and fixed on the basis of commodity properties i.e., there shall be the same tax rate for same goods regardless of origin of goods;

No tax privileges should be granted that are conditioned upon export performance, trade-balancing requirements, or local content requirements.

Article 12. Principles of Customs Regulation in the course of Foreign Economic Activities

Customs regulation of foreign economic activity shall be effectuated pursuant to this Law, the Customs Code, laws of Ukraine on customs regulation, the Decree of the Cabinet of Ministers of Ukraine “On the Single Customs Tariff of Ukraine” and international agreements and treaties of Ukraine, to which binding force the Supreme Rada of Ukraine has given its consent.

Customs regulation shall be effectuated on the basis of the following principles:

- exclusive jurisdiction of Ukraine within its customs territory;
- exclusive competence of Ukrainian customs authorities with respect to customs affairs;
- legality;
- uniform procedures for entry of goods and motor vehicles through Ukraine’s customs territory;
- systematic arrangements;

- efficiency;
- compliance with rights and legislatively protected interests of natural person and legal entities;
- openness and transparency.

Particularities of customs control and customs taxation within territories of special economic zones shall be governed by the Customs Code and Ukrainian special laws as well as international treaties and agreements, which set out legal regimes in these zones in each particular case.

Customs measures, envisaged in Articles 25, 28 and 34 of this Law, may be taken against subjects of foreign economic activities (foreign business entities).

Article 13. Maintenance of Payments and Financing of Entities engaged into Foreign Economic Activities

All entities engaged into foreign economic activity shall be entitled to:

- choose independently, under foreign economic operations, a form of payments from among those that are not inconsistent with the laws of Ukraine and comply with international rules;
- take and extend commercial loans out of their own funds in the existing Ukrainian currency and in foreign currencies both within and without Ukraine;
- choose banks and credit institutions that will maintain their foreign currency accounts and settlements with foreign business entities, use their services, subject to the requirements of the effective laws of Ukraine.

Payment and crediting services to entities engaged into foreign economic activity shall be provided within the territory of Ukraine by banks and credit institutions, as well as by foreign and international banks registered pursuant to prescribed procedures in Ukraine.

Article 14. Insurance of Foreign Economic Operations

Foreign economic operations in Ukraine shall be insured by commercial insurance companies (state-owned, joint stock, foreign, mixed, co-operative and others) and other entities engaged into foreign economic activity, the subject matter of whose activities, as provided by their charters, includes insurance operations (insurance). Entities engaged into foreign economic activity shall independently choose insurance companies (insurers).

Foreign economic operations shall be insured by entities engaged in foreign economic activity in Ukraine on a contractual basis and shall be voluntary, unless otherwise provided by the laws of Ukraine.

Foreign economic operations shall be insured in Ukraine against risks existing in world practices.

Article 15. Licensing of Foreign Economic Operations

Licensing of foreign economic operations shall mean a set of administrative actions undertaken by the agency of executive power for economic policy affairs concerned with issuing a permit to export (import) goods to an entity engaged in foreign economic activity.

Licensing of export (import) of goods shall be in the form of automatic and non-automatic licensing.

Automatic licensing shall mean a set of administrative actions undertaken by the agency of executive power for economic policy affairs concerned with issuing a permit to an entity engaged in foreign economic activity to export (import) goods for a specified time period, with respect to which goods no quotas (quantitative or other restrictions) have been set. Automatic licensing of exports (imports) as an administrative procedure for preparation and issuance of licenses shall not have a restrictive impact upon goods whose export (import) is subject to licensing.

Non-automatic licensing shall mean a set of administrative actions undertaken by the agency of executive power for economic policy affairs concerned with issuing a permit to an entity engaged in foreign economic activity to export (import) goods for a specified time period, with respect to which goods certain quotas (quantitative or other restrictions) have been set. Non-automatic licensing of exports (imports) as an administrative procedure for preparation and issuance of licenses shall be used in the event that quotas (quantitative or other restrictions) for exports (imports) of goods have been set.

Quantitative restrictions shall be applied exclusively on a non-discrimination basis, i.e., no prohibitions or restrictions shall be applied by Ukraine with respect to imports of any goods into Ukraine or with respect to exports of any goods designated for any country, unless imports of similar goods from all third countries into Ukraine or exports into all third countries are not similarly prohibited or restricted if other is not foreseen by the international agreements and legislation of Ukraine.

Licensing of exports of goods shall be introduced in Ukraine in the event of:

- considerable disturbance of the equilibrium with respect to certain goods on the domestic market, which goods are of high importance for Ukraine, especially as regards agricultural products, fish products, food industry products and essential consumer goods or other goods. Such licensing shall be of a temporary nature and shall be used until the equilibrium with respect to certain goods on the domestic market, which goods are of high importance for Ukraine, has been restored;

- a need to ensure protection of and for human, animal and plant life and health, the environment, public morals, national wealth of artistic, historic or archeological significance or protection of intellectual property rights, as well as if needed for State security purposes;

- export of precious metals, except for bank metals;

- a need to apply measures aimed to protect domestic producers in the event of restrictions on exports of domestic materials necessary for securing a sufficient amount of such materials for the domestic processing industry during periods when domestic prices for such materials are at levels lower than world prices as a result of introduction by the Cabinet of Ministers of Ukraine of a stabilization plan, provided that such restrictions should not result in growth of exports by such sector of domestic industry. Such measures shall be applied exclusively on a non-discrimination basis;

- a need to ensure protection of and for patents, trademarks and copyright;

- a need to ensure performance of international treaties and agreements of Ukraine.

Licensing of imports of goods shall be introduced in Ukraine in the event of:

- drastic deterioration of the balance of payments and external payments (if other measures are ineffective);

- drastic reduction or a minimum amount of gold reserves;

- a need to ensure protection of and for human, animal and plant life and health, the environment, public morals, national wealth of artistic, historic or archeological significance or protection of intellectual property rights, as well as if needed for State security purposes;

- import of precious metals, except for bank metals;

- a need to apply measures aimed to protect domestic producers in the event of growth of imports into Ukraine, which cause or threaten to cause considerable harm to domestic producers or directly competing goods. Such licensing shall be of a temporary nature and

shall be applied for a time period that enables to prevent considerable harm to domestic producers and makes it possible for domestic producers to restore their position on the given market;

- a need to ensure protection of and for patents, trademarks and copyright;

- a need to ensure performance of international treaties and agreements of Ukraine.

Resolutions to apply a licensing regime for exports (imports) of goods, including establishment of quotas (quantitative or other restrictions), shall be adopted by the Cabinet of Ministers of Ukraine upon a submission from the central agency of executive power for economic policy affairs with setting out a list of specific goods, whose export (import) is subject to the licensing regime, and a time period, within which such regime and quantitative or other restrictions with respect to each of the goods will be in effect.

In the event that anti-dumping, countervailing or safeguard measures are used to protect domestic producers, decisions on introducing a licensing regime shall be adopted by the Interdepartmental Commission for International Trade in accordance with law.

Only one type of license may be prescribed with respect to each type of goods.

Licenses shall be issued by the central agency of executive power for economic policy affairs and, within limits of powers granted thereto, an applicable Republican body of the Autonomous Crimean Republic, a structural unit of oblast State Administrations and the Kyiv and Sevastopol City State Administrations.

In case of violation of the order of such activity fulfillment stated by the given Law or other Laws of Ukraine by a subject of foreign economic activity, it can be applied with an individual licensing procedure in accordance with the Article 34 of the given Law.

Licenses shall be issued on the basis of applications filed by entities engaged in foreign economic activity, which applications shall be filed in the form prescribed by the central agency of executive power for economic policy affairs.

In order to obtain a license, applicants shall file applications, as a rule, with one agency of executive power. If it is necessary to obtain an approval, it shall be possible to file applications with several agencies of executive power, but not more than with three agencies.

Applications for licenses may be considered in a manner as they are received, which manner will be determined by dates of registration of applications, or simultaneously after the time period for accepting applications has ended.

The application for a license must contain the following information: the full name of the entity engaged in foreign economic activity, the first and last name of the manager, the name and code of a good (goods) pursuant to the Ukrainian Classifier of Goods in Foreign Economic Activities (UCG FEA), the name of a producer, the name of a consumer of the good (goods), the code and name of a country (countries) of origin and designation – in the event of export, the code and name of a country (countries) of origin and delivery – in the event of import, the term of the license, the quantity and value of the good (goods), the code and name of a customs office, the full name and address of the seller and the buyer, the type of agreement, the currency of payment, the basic and additional units of measurement and the price of the good (goods), approvals from agencies of executive power (should such be necessary), special conditions of the license.

In the event that an application is filed, documents and information, which are regarded as necessary to confirm data indicated in the application and the foreign economic agreement (contract), may be required.

An application may not be rejected if insignificant errors are committed in the documents submitted for obtaining a license, if they do not change main data in the application. The main data shall be regarded those data as are provided by terms and conditions of the foreign economic agreement (contract).

If a regime of automatic licensing is introduced, an application for a license and other required documents may be filed on any business day prior to customs clearance of goods.

The time period, within which the license must be issued, must not exceed 10 business days as from the date, on which the application and other required documents corresponding to the prescribed requirements were received. It may not be refused to issue a license after the required documents have been submitted, if such documents comply with the prescribed requirements.

In the event that non-automatic licensing is introduced:

a time period, within which applications must be considered, must not exceed 30 days as from the date on which the applications were received, if such applications are considered in the manner as they are received, and must not exceed 60 days as from the date on which the time period for accepting the applications ended, if such applications are considered simultaneously;

a license shall be issued on the basis of a license within the limits of a quota, with indication of the term of the license;

if, as of the date of filing of an application (in the event that applications are considered in the manner as they are received), the set quotas (quantitative or other restrictions) have been exhausted, such an application shall not be considered. The entity engaged in foreign economic activity, which has filed a respective application, shall be notified in writing of the fact that the quotas (quantitative or other restrictions) have been exhausted within 7 business days from the date on which the application was received;

a decision to issue a license shall be adopted taking into account the information on the use of the earlier issued licenses, provided that entities engaged in foreign economic activity comply with requirements of law on protection of economic competition.

Non-automatic licensing must not have a restrictive or trade-disturbing impact upon imported goods in addition to such impact as arises as a result of introduction of the non-automatic licensing regime.

A license shall be issued if the application therefor and other submitted documents have been drawn up in accordance with requirements laid down by law.

A decision to issue a license must be reasoned, must be adopted within time periods set for consideration of applications, and must be sent (issued) to the applicant in writing.

In the event that it has been decided to refuse to issue a license, the applicant shall have a right to challenge such decision pursuant to law.

A fee for an issued license shall be paid, the amount of which fee shall be prescribed by the Cabinet of Ministers of Ukraine, taking into account the actual costs relating to the application of the licensing procedure.

Goods shall be cleared through customs on condition that an original copy of the license, which was obtained by the entity engaged in foreign economic activity, has been provided to the customs office.

A copy of the license must be attached to a cargo customs declaration at the time goods are declared, export (import) of which goods is subject to the licensing regime, and shall be one of the grounds for permitting entry of such goods through Ukraine's customs territory.

The central agency of executive power for economic policy affairs shall inform the central agency of executive power for customs affairs on a monthly basis about issued licenses for export (import) of goods that are subject to the licensing regime.

The central agency of executive power for customs affairs shall provide information on a monthly basis to the central agency of executive power for economic policy affairs about amounts of exports (imports) of goods under issued licenses.

Commodity exchange (barter) operations shall be licensed in the event that the subject matter of these operations includes goods whose export (import) is subject to the licensing regime.

Exports (imports) of laser-readable discs, matrixes, equipment and raw materials for their production shall be licensed subject to requirements of law dealing with matters of production, export (import) laser-readable discs pursuant to the license issuance procedures as are laid down in this Article.

The regime of licensing shall not extend to exports and selling of compensation and profit-related products received by an investor into ownership under terms and conditions of an agreement for product sharing entered into pursuant to the requirements of the Law of Ukraine “On Agreements for Product Sharing”. It shall be prohibited to introduce any restrictions on exports and selling of such products, including quantitative restrictions, unless otherwise provided by the agreement for product sharing.

Licensing procedures specified in this Article shall not extend to exports (imports) of goods mentioned in Article 19 of this Law.

The list of goods, whose export (import) is subject to the licensing regime, information on validity terms of licenses and on any changes made thereto, procedures for submission and consideration of applications shall be published in official printed gazettes in Ukraine, with a notification to an applicable committee of the World Trade Organization (the WTO) within 60 days from the date of publication, and with furnished copies of such gazettes.

In the event that a quota is allocated among supplying countries, information on the allocation of the quota must be published with notifications thereof to other countries interested in supplying certain goods into Ukraine.

An official publication shall be carried out prior to the date of introduction of licensing.

At a request from an interested WTO member, relevant information must be provided on:

- procedures for application of restrictions;
- the number of licenses issued during a certain time period, with an indication, if necessary, of the quantity and/or value of goods;
- allocation of licenses among supplying countries;
- statistical data on quantities and/or value of goods.

The effect of this Article shall not extend to operations of the National Bank of Ukraine, which operations are carried by it pursuant to the Law of Ukraine “On the National Bank of Ukraine”.

Article 16. Prohibition of Some Types of Export and Import

It shall be prohibited in Ukraine:

- to export from the territory of Ukraine items that constitute the national, historical, archeological or cultural heritage of the Ukrainian people as is defined by the laws of Ukraine;
- to import or transit any goods, with respect to which it is in advance known that they may cause harm to public morals, human health or endanger human and animal life and plants, or result in the destruction of the environment in accordance with relevant laws, unless necessary measures are taken to avoid such damage with respect to goods in transit;
- to import products and services that contain propaganda of ideas of war, racism and racial discrimination, genocide, etc., which are inconsistent with applicable norms of the Constitution (Basic Law) of Ukraine;
- to export natural resources that are being exhausted;
- to export and import goods in violation of intellectual property rights.

-to export from Ukraine's territory goods within the framework of implementation of UN Security Council resolutions to apply restrictions or embargoes on supplies of goods to a certain country.

The specific list of goods falling under the effect of this Article shall be approved by the Supreme Rada of Ukraine upon a submission from the Cabinet of Ministers of Ukraine.

Ukrainian customs authorities and the central agency of executive power for economic policy affairs shall be charged with control over compliance with the requirements set out in this Article.

Article 17. Principles of Application of Sanitary, Phytosanitary and Veterinary Standards and Requirements in Foreign Economic Activities

Imports into Ukraine of goods, which are regulated by sanitary, phytosanitary and veterinary standards and requirements, shall be governed by special laws of Ukraine.

Sanitary, phytosanitary and veterinary measures shall be applied in accordance with the following principles:

- transparency;
- equivalence;
- protection of human, animal and plant life and health;
- application of most favored nation treatment and national treatment with respect to goods being imported;
- sanitary and phytosanitary measures being based on scientific principles;
- application of sanitary and phytosanitary measures exclusively in forms that would not constitute hidden restrictions on international trade;
- application of sanitary, phytosanitary and veterinary measures only within limits of scopes necessary for achieving goals as are defined by effective Ukrainian law;
- application of sanitary, phytosanitary and veterinary measures in such a manner as to avoid the arbitrary or unjustified setting of different levels of a measure that are regarded adequate in various situations, if such difference would lead to discrimination or a hidden restriction on international trade.

Sanitary, phytosanitary and veterinary standards and requirements, as well as procedures for their application may not be used to establish non-tariff barriers for entities to engage in foreign economic activity.

Article 18. Principles of Application of Technical Rules, Regulations and Standards in Foreign Economic Activities

Imports into Ukraine of goods, which are regulated by technical rules, regulations and standards, shall be governed by applicable special laws of Ukraine.

Technical rules, regulations and standards shall be applied in accordance with the following principles:

- transparency;
- protection of human, animal or plant life and health and the environment;
- application of most favored nation treatment and national treatment with respect to goods being imported;
- priority in application of international technical regulations;
- harmonization of technical regulations;
- technical rules, regulations and standards being based on scientific principles;

application of technical rules, regulations and standards exclusively in forms that would not constitute a hidden restriction on international trade;

application of technical rules, regulations and standards only within limits of scopes necessary for achieving goals as are defined by effective Ukrainian law.

Article 19. Measures concerned with Protection of Economic Competition in the Area of Foreign Economic Activities

Foreign economic activity shall be carried out by entities engaged into foreign economic activity in compliance with the requirements of law on protection of economic competition, except as is provided in this Article.

Exports and imports of weapons, ammunition, military machinery and special components for production thereof, explosive substances, nuclear materials (including materials in the form of heat-radiating assembly units), technologies, equipment, plants, special non-nuclear materials and services connected with them, sources of ionizing radiation, as well as other types of products, technologies and services, which are currently used for production of weapons and military machinery or constitute State secrets of Ukraine as determined by the laws of Ukraine; precious metals and alloys, gold and silver, drugs and psychotropic means; exports of pieces of arts and artifacts from museum funds of Ukraine – shall be effected exclusively by entities engaged in foreign economic activity that have been empowered by Ukraine as the State.

Appointments of authorized entities engaged in foreign economic activity, which are entitled to carry out specified exports and imports, and regulation of relevant export and import operations shall fall within the competence of the Cabinet of Ministers of Ukraine.

It shall be prohibited to establish in any form a State monopoly on exports and imports of other types of goods that are not specified in this Article, and any such establishment may be challenged in court. Any organization, including state-owned organizations, shall have no authority to carry out functions that directly or indirectly impede entities engaged in foreign economic activity to freely carry out such activities or impede them in other form, except as expressly specified in this Law.

Article 20. Supplies of Products for Government Needs and Procurement of Goods, Works and Services for Government Funds

Matters relating to supplies of products for government needs and procurement of goods, works and services shall be governed by special laws of Ukraine.

Entities engaged in foreign economic activity, including foreign business entities, shall participate in supplies of products for government needs and in procedures for procurement of goods, works and services for government funds exclusively on a voluntary basis under conditions and in amounts as are determined by civil-law agreements (contracts) that are entered into between such entities and a governmental customer.

Legislative regulation, procedures and practices of supplies of products for government needs and procedures for procurement of goods, works and services for government funds must be carried out on a basis of transparency.

Article 21. Accounting of Foreign Economic Operations, Reporting and Audit of Entities engaged in Foreign Economic Activities

Matters relating to accounting of foreign economic operations, reporting and audit of entities engaged in foreign economic activity shall be governed by special laws of Ukraine.

Article 22. Informational Support for Foreign Economic Activities

Every entity engaged in foreign economic activity shall have a right to receive any information necessary for the conduct of foreign economic activity, which information does not constitute a state or commercial secret. The volume of information that constitutes state secrets shall be determined in accordance with the laws of Ukraine.

The composition and volume of commercial secrets shall be determined in accordance with the Law of Ukraine “On Information”.

Every subject of foreign economic activities has the right for timely familiarizing with official texts of laws and other normative acts with further information on amendments to them, which regulate the relations directly or indirectly concerning foreign economic activities. State bodies, departments and institutions, which issue normative acts, shall officially publish these texts in official gazette and in mass media of Ukraine, and in this connection the named acts cannot come into force before their official publication. Every subject of foreign economic activities has the right to directly receive information from the state bodies, which shall without delay provide them with full official texts of normative acts.

Statistical information on foreign economic activity shall be consolidated by the State Statistics Committee of Ukraine on the basis of data furnished in a mandatory manner by authorities that regulate foreign economic activity (financial authorities, offices of the State Customs Service, the National Bank of Ukraine and others), as well as by entities engaged in foreign economic activity.

The State Statistics Committee of Ukraine shall be obligated to make known statistical information in its possession to entities engaged in foreign economic activity pursuant to procedures laid down by the Law of Ukraine “On Information” and the Law of Ukraine “On State Statistics”.

Governmental authorities, legal entities and natural persons, other business entities that have been provided with information constituting commercial secrets of entities engaged in foreign economic activity or foreign business entities shall have no right to use such information without permits from the respective entities engaged in foreign economic activity and foreign business entities, and shall be liable therefor in accordance with this Law and other laws of Ukraine.

The central agency of executive power for economic policy affairs shall establish, within its structure, a National Information Center for purposes of effective cooperation and operative exchange of information, materials and documents with WTO Members and the WTO as an intergovernmental organization.

Goals of the National Information Center shall be to process all reasonable requests from WTO members, and to provide responses thereon and relevant documents, including adopted and proposed legislative acts and regulatory rules, in particular with respect to:

- tariffs (including the spectrum and scope of obligations, rates applicable to members of free trade zones/customs unions, other preferences);
- tariff quotas and additional charges;
- quantitative, including voluntary, export restrictions;
- other non-tariff measures, such as licensing, various types of fees;
- customs valuation rules;
- rules of origin;
- government procurement;

anti-dumping, countervailing and safeguard measures;
export taxes;
export subsidies, exemption from taxes and financing of concession exports;
adopted and proposed technical regulations, standards, effective or proposed
procedures for conformity assessment, sanitary and phytosanitary procedures, and risk
assessment procedures;
free trade zones, including production that is not subject to a customs tax;
restrictions on exports, including voluntary;
other types of State assistance, including subsidies, tax exemptions;
currency controls relating to imports and exports;
trade per assuagements by the State;
place where relevant notifications are published, or furnishing of information on
places where such information may be obtained;
membership or participation of Ukraine or applicable central or local government
authorities in international and regional bodies and organizations;
participation of Ukraine in bilateral and multi-lateral arrangements within the
framework of the GATT/WTO system;
other measures that will be undertaken within the framework of the GATT/WTO
system.

If necessary, appropriate centers for processing of requests may be established within
central agencies of executive power, which pursuant to their competence regulate matters
specified in Part 8 of this Article, in order to promptly provide information under requests
from WTO members and all interested parties at WTO members and the National Information
Center.

Section III

SPECIAL LEGAL REGIMES OF FOREIGN ECONOMIC ACTIVITIES

Article 23. Special Economic Zones

Special economic zones of various types may be established in the territory of
Ukraine. The status and territory of the said zones shall be determined by the Supreme Rada
of Ukraine in accordance with the Commercial Code of Ukraine, the law on general principles
for establishment and functioning of special (free) economic zones and the laws of Ukraine on
special economic zones through enactment of a separate law of Ukraine for each of zones.

Goods that are imported through, or produced or modified in, the special economic
zones should, when imported into the customs territory of Ukraine, be subject to the same
customs duties, internal taxes, customs formalities, and technical controls as foreign goods.

Article 24. Other Special Legal Regimes of Foreign Economic Activities

Ukraine may conclude with countries, with which it has common sea and/or land
borders, bilateral and/or multilateral agreements that establish on a reciprocity basis special
legal regimes of trade, commodity turnover (frontier trade, coast trade and others) and
envisage privileged conditions for Ukrainian entities engaged in foreign economic activity
and business entities from these countries in relations with them in accordance with Ukraine's
obligations under international agreements.

Procedures applicable to frontier (coast) trade and relevant border territories, in which
special regimes for the conduct of foreign economic activity have been introduced, shall be

determined by the Cabinet of Ministers of Ukraine in accordance with international treaties and agreements of Ukraine with neighboring countries and Ukrainian law.

Section IV

ECONOMIC RELATIONS OF UKRAINE WITH OTHER COUNTRIES AND INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS

Article 25. Economic Relations of Ukraine with Economic Groups, Customs Unions and other Countries

Economic relations of Ukraine with economic groups, customs unions and other countries shall be governed by respective international treaties and agreements and rules of international law.

Ukraine shall conclude, fulfil and denounce international treaties and agreements on matters of foreign economic activity, as well as agreements relating to such matters, pursuant to the Constitution (Basic Law) of Ukraine and the laws of Ukraine.

The legal status of business entities of other countries within the territory of Ukraine shall be determined by this Law, other laws of Ukraine and the above referenced treaties and agreements.

Article 26. Relations of Ukraine with International Intergovernmental Economic Organizations

Ukraine shall independently acquire membership in international intergovernmental economic organizations, whose statutory documents are not inconsistent with the goals and principles of the Constitution (Basic Law) of Ukraine.

Ukraine shall enter into relations with international intergovernmental economic organizations on the basis of applicable international treaties and/or constituent instruments of the said organizations.

Section V

PROTECTION OF RIGHTS AND LEGITIMATE INTERESTS OF THE STATE AND OTHER ENTITIES ENGAGED IN FOREIGN ECONOMIC ACTIVITIES AND BUSINESS ACTIVITIES IN UKRAINE

Article 27. Protection of Rights and Legitimate Interests of Ukrainian Entities engaged in Foreign Economic Activities outside Ukraine

Ukraine shall be obligated to protect rights and legitimate interests of Ukrainian entities engaged in foreign economic activity outside Ukraine in accordance with the rules of international law. Such protection shall be provided through diplomatic and consular institutions, which represent Ukraine's interests abroad, and trade and economy missions within foreign diplomatic institutions of Ukraine, upon applications from the said entities engaged in foreign economic activity.

Article 28. Measures of Ukraine in Response to Actions of Discrimination and/or Unfriendly Actions of other Countries, Customs Unions or Economic Groups

If there is information that other countries, customs unions or economic groups restrict the exercise of legitimate rights and interests of Ukrainian entities engaged in foreign economic activity, governmental authorities dealing with regulation of foreign economic shall, pursuant to their competence, be authorized to take adequate measures in response to such actions. In the event that such actions cause or threaten to cause damage to the State and/or to entities engaged in foreign economic activity, the said measures may provide for indemnification therefor.

Measures of Ukraine in response to actions of discrimination and/or unfriendly actions of other countries, customs unions or economic groups shall be undertaken in accordance with the laws of Ukraine, international treaties and agreements, to which binding force the Supreme Rada of Ukraine has given its consent, and generally recognized norms, standards and rules of international law.

In the event that Ukraine and the country, which has taken actions of discrimination and/or unfriendly actions with respect to Ukraine, are members of the same international inter-governmental organization, the disputed situation shall be adjudicated and resolved in accordance with the rules and procedures of such organization.

In the event that Ukraine and a customs union or an economic group, which has taken actions of discrimination and/or unfriendly actions with respect to Ukraine, are members of the same international inter-governmental organization, the disputed situation shall be adjudicated and resolved in accordance with the rules and procedures of such organization.

Decisions to apply measures in response to actions of discrimination and/or unfriendly actions of other countries, customs unions or economic groups shall be adopted by governmental authorities that regulate foreign economic activity pursuant to their competence.

In order to establish facts of actions of discrimination and/or unfriendly actions of other countries, customs unions or economic groups, the central agency of executive power for economic policy affairs shall carry out investigations pursuant to procedures determined by the Cabinet of Ministers of Ukraine.

Materials of such investigations shall be reviewed by the Interdepartmental Commission for International Trade which will give recommendations for competent governmental authorities as to application of appropriate measures. On the basis of materials of investigations, the central agency of executive power for economic policy affairs, together with the Ministry of Foreign Affairs, shall contact relevant government and/or competent authorities of other countries, customs unions or economic groups with proposals to settle disputed situations.

In the event of a positive response from the said authorities, the central agency of executive power for economic policy affairs shall form a delegation to conduct appropriate negotiations and to prepare appropriate international agreements of an inter-departmental or intergovernmental nature.

In case if the correspondent governmental and/or competent authorities of other States or customs unions or economic associations did not give the official consent for appliance of international-legal tools of settlement of international disputes and/or when discriminating and/or dissocial acts of such authorities violate directly or indirectly the international agreements of Ukraine with those States, customs unions or economic associations, the Central executive power authority, within the frame of its competence, according to the recommendations of Interdepartmental Commission passes the materials to the Cabinet of Ministers of Ukraine for taking the appropriate decisions on appliance of necessary measures.

Application of measures in response to actions of discrimination and/or unfriendly actions of other countries, customs unions or economic groups shall be terminated if such actions of discrimination and/or unfriendly actions of the given countries, customs unions or economic groups against Ukraine are discontinued, an appropriate agreement is signed and/or damages are reimbursed.

Acts of the Cabinet of Ministers of Ukraine about settlement of dispute and appliance of measures in response to discriminating and/or dissocial actions of other States, customs unions or economic associations are obligatory for fulfillment by the executive power authorities of Ukraine, subjects of foreign economic activity and foreign subjects of economic activity.

A decision to apply appropriate measures in response to actions of discrimination and/or unfriendly actions of other countries, customs unions or economic groups may be challenged in court within one month from the date of introduction of such measures pursuant to procedures specified by the laws of Ukraine.

Article 29. Measures against Unfair Trade and Growing Imports in the course of Foreign Economic Activities

Unfair trade shall be understood as:

- effectuation of dumping imports that are subject to antidumping measures;
- effectuation of subsidized imports that are subject to countervailing measures;

Growing import shall be understood as imports in amounts and/or in conditions causing serious injury or threatening to cause serious injury to Ukrainian producers of such goods and shall be subject to safeguard measures.

Pursuant to results of antidumping, anti-subsidy or safeguard investigations carried out pursuant to the laws of Ukraine, decisions shall be passed to apply antidumping, countervailing or safeguard measures, which decisions may be challenged in court within one month from the date of introduction of the relevant measures pursuant to the procedures specified by the laws of Ukraine.

At that, safeguard quotas shall mean the maximum volume of import into Ukraine of a certain good (goods), which is subject to a special safeguard investigation and/or safeguard measures, which volume is permitted for import into Ukraine within a specified time period, and is expressed in product units and/or price units and safeguard license shall mean a duly executed right to import into Ukraine a certain good (goods) within a prescribed time period, where such good (goods) is (are) subject to a special safeguard investigation and/or safeguard measures.

Countervailing duty shall mean a special duty that is collected in the event of importation into Ukraine's customs territory of a product that is subject to applied countervailing measures (preliminary or final), in order to eliminate the effect of any grant or subsidy given directly or indirectly, for production, manufacturing or export of such product.

Anti-dumping, compensatory, and safeguard measures, when justifiable under respective legislation, shall be applied regardless of the nature of trade arrangement between Ukraine and other countries and shall be applied on affected imports including those destined to free economic zones.

Anti-dumping and countervailing duties shall be exclusive measures that may be applied in order to eliminate or prevent dumping, and in order to eliminate the effect of any grant or subsidy, provided directly or indirectly, for production, manufacturing or export of such product.

Section VI

LIABILITY IN FOREIGN ECONOMIC ACTIVITIES

Article 30. General Grounds for Liability of Entities engaged in Foreign Economic Activities

Ukraine as the State and all entities engaged in foreign economic activity and foreign business entities shall be liable for violations of this Law or related laws of Ukraine and/or their obligations arising from agreements (contracts) only on conditions and under procedures as are determined by the laws of Ukraine.

Ukraine as the State shall not be liable for actions of entities engaged in foreign economic activity.

Entities engaged in foreign economic activity shall not be liable for actions of Ukraine as the State.

If Ukraine participates in foreign economic activity as an entity engaged in foreign economic activity pursuant to Article 3 of this Law, it shall be liable on general and equal principles that are applicable to other entities engaged in foreign economic activity.

All matters and issues regarding the determination of liability arising from application of this Law and related laws of Ukraine shall be subject to the jurisdiction of Ukrainian judicial bodies.

Entities engaged in foreign economic activity and foreign business entities shall have the right to have the said matters and issues reviewed in court.

Article 31. Types and Forms of Liability in Foreign Economic Activities

Types and forms of liability in foreign economic activity shall be prescribed and governed by special laws of Ukraine.

Article 32. Liability of Ukraine as the State

Ukraine as the State shall be financially liable before entities engaged in foreign economic activity and foreign business entities for all its actions that are inconsistent with effective Ukrainian laws and cause such entities losses (direct, indirect), moral damages, and result in their loss of profits, as well as for its other actions, including those that govern foreign economic activity and are not directly provided in this Law, which cause the specified losses (damage) and result in lost profits, except for instances when such actions are caused by wrongful actions of the said entities engaged in foreign economic activity and foreign business entities.

The State shall be liable for its obligations with its property, except for the property that may not be seized pursuant to law.

The State shall acquire and discharge its rights and obligations through governmental authorities within limits of their competence provided by law.

Actions of governmental authorities and officials thereof shall be regarded as actions of Ukraine as the State in its entirety. The State shall bear liability for them as provided in this Article.

Any entity engaged in foreign economic activity or a foreign business entity shall have the right to file a lawsuit against Ukraine as the State. Such lawsuits shall be subject to the jurisdiction of Ukrainian courts pursuant to Article 36 of this Law.

The said lawsuits shall be filed by entities engaged in foreign economic activity at the place of their permanent office or residence, and by foreign business entities – at the place of location of the governmental authority and/or the official that has committed actions specified in this Article.

The lawsuit shall be filed under general procedures specified by the law of civil procedure of Ukraine.

Article 33. Liability of Entities engaged in Foreign Economic Activities

Subjects of foreign economic activity bear responsibility for violation of the order of foreign economic activity fulfillment fixed by the given and/or other Laws of Ukraine in the forms and ways foreseen by the Articles 31 and 34 of the given Law, other Laws of Ukraine and/or foreign economic agreements (contracts).

Article 34. Special Sanctions for Violation of this Law and Related Laws of Ukraine

The following special sanctions may be applied against entities engaged in foreign economic activity or foreign business entities for violation of this Law or related laws of Ukraine:

- individual licensing procedure in cases of violation of the given Law and/or Laws of Ukraine connected with it that establish certain prohibitions, restrictions or order of foreign economic activity fulfillment;
- temporary suspension of foreign economic activity in cases of violation of this Law or related laws of Ukraine, undertaking of actions that may cause harm to interests of national economic security.

Sanctions referred to in paragraphs 1 and 2 in Part 1 of this Article shall be applied by the central agency of executive power for economic policy affairs upon submissions from tax authorities and control and auditing services, customs authorities, law enforcement agencies, divisions of the Antimonopoly Committee of Ukraine and the National Bank of Ukraine.

A filing of claim concerning sanctions appliance must have the following information: full name and data of subject of foreign economic activity (for foreign subjects of economic activity this information is in a language of country of their locations), information about the matter of violation with reference to the specific provisions of legislation of Ukraine, kind of special sanction that is proposed to be applied, name and full data of counteragent, which during the implementation of the contract with the legislation is violated, other appropriate information.

Sanctions stated in the given Article act till the moment of elimination of violations of the legislation of Ukraine or use of practical measures that guarantee fulfillment of the given Law and/or Laws of Ukraine connected with it and are cancelled by the central executive power authority on the matters of economic policy.

An official notification from the central executive power authority on the matters of economic policy can precede the appliance of special sanctions to the subjects of foreign economic activity and foreign subjects of economic activity.

If the subjects of foreign economic activity or foreign subjects of economic activity, which the sanctions were applied to, eliminated the violations of the legislation of Ukraine or took the practical measures that guarantee the fulfillment of the given Law and/or Laws of Ukraine connected with it, then initiators of the filing of claim concerning sanctions appliance

can forward materials as for their elimination (change of kind, suspension) to the central executive power authority on the matters of economic policy.

When the force-majeure circumstances arise and in case of taking measures concerning bringing its foreign economic activity in accordance with the Laws of Ukraine, the central executive power authority on the matters of economic policy can suspend the action of sanctions for the period till the termination of force-majeure circumstances or for the period of the case consideration and suspend the filing of a statement of claim to the court of the country of counteragent location or International Commercial Arbitrage Court, Marine Arbitrage Commission at the Chamber of Commerce and Industry of Ukraine about recognition or collection of debt from the foreign subject of economic activity connected with non-fulfillment of the conditions of foreign economic agreement (contract).

In case of elimination of violation of the legislation of Ukraine or taking practical measures that guarantee fulfillment of the given Law and Laws of Ukraine connected with it and bringing its foreign economic activity in accordance with the Laws of Ukraine, or presenting a sufficient evidence of impossibility of or lack of prospects for applying practical measures, which guarantee fulfillment of the Law, the subjects of foreign economic activity and foreign subjects of economic activity, which the sanctions are applied against, have the right to submit to the central executive power authority on foreign economic policy the corresponding documents and petitions about elimination (change of type, suspension) of the actions of sanctions.

A petition must have the following documents:

- letter-application with the account or reasons that caused the violation and about the taken measures as for bringing its foreign economic activity in accordance with the norms of current legislation of Ukraine;

- originals or copies of documents (certificates) legalized in the established order from the State authorities, which control the foreign economic activity or make currency control and/or agents of currency control, which certify the taken practical measures by the subject of foreign economic activity as for its activity bringing in accordance with the Laws of Ukraine.

The total term of those petitions consideration must not exceed 30 calendar days.

In order to specify the information the central executive power authority on the matters of economic policy can apply to the state authorities that control the field of foreign economic activity, make currency control and agents of currency control with the enquires on receiving of tax documents (information) concerning activity of subjects of foreign economic activity, who applied to them with the petitions for elimination (change of type, suspension) of the sanctions action.

Responsibility for the information reliability mentioned in the filings of claims concerning appliance (elimination, change of type, suspension) of sanctions, on the base of which the central executive power authority on foreign economic policy takes the correspondent decision, is borne by the initiator of filing of claim in order foreseen by the current legislation of Ukraine.

Responsibility for the documents reliability presented to the central executive power authority on the matters of economic policy is borne by the subjects of foreign economic activity.

The said applied sanctions may be challenged in court.

Section VII

PROCEDURES FOR RESOLUTION OF DISPUTES IN FOREIGN ECONOMIC ACTIVITIES

Article 35. Adjudication of Disputes Arising in the Course of Foreign Economic Activities

Disputes between entities engaged in foreign economic activity, foreign business entities arising in the course of foreign economic activity may be adjudicated by Ukrainian commercial courts and, upon consent of parties to a dispute, by the International Commercial Arbitration Court and the Maritime Arbitration Commission under the Ukrainian Chamber of Commerce and Industry, and by other dispute resolution bodies, if it is not inconsistent with effective Ukrainian laws or is envisaged by international treaties and agreements of Ukraine.

Article 36. Disputes Arising in the Course of Application of this Law

Any disputes as to application of provisions of this Law and laws adopted in implementation hereof may be the subject matter of proceedings in:

- Ukrainian courts, if one of the parties in a case is a natural person and/or the State;
- commercial courts, if parties in a case are legal entities.

Interstate disputes, which may arise as a result of actions of Ukraine in applying this Law, shall be settled in accordance with procedures agreed by parties pursuant to the rules of international law.

II. FINAL PROVISIONS

1. The given Law is coming into force from January 1, 2005.
2. To make alterations to the following legislative acts of Ukraine:

In the title and text of the Law of Ukraine “On use of special measures regarding import to Ukraine” (Vidomosti Verkhovnoji Rady Ukrainy (News of the Parliament of Ukraine (VVR), 1999, No 11, article 78, VVR, 2000, No 24, article 186, VVR, 2003, No 26, article 193, VVR, 2003, No 37, article 300), in text of the Law of Ukraine “On common customs tariff” (Vidomosti Verkhovnoji Rady Ukrainy (VVR), 1992, No 19, article 259, VVR, 1993, No 12, Article 107, VVR, 1993, No 24, article 270, VVR, 1996, No 41, article 192, VVR, 2002, No 35, article 259, VVR, 2004, No 17-18, article 250, VVR, 2004, No 25, article 346, VVR, 2004, No 29, article 368) and in the third part of article 1 and the first part of article 7 of the Law of Ukraine “On taxation system” (Vidomosti Verkhovnoji Rady Ukrainy), 1997 p., No 16, article 119, No 22, article 159, VVR, 2004, No 7, article 56, VVR, 2004, No 11, article 142) phrases “special investigation” and “special measures” to be changed by phrases “safeguard investigation” and “safeguard measures”.

In the Law of Ukraine “On common customs tariff” (Vidomosti Verkhovnoji Rady Ukrainy (VVR), 1992, No 19, article 259, VVR, 1993, No 12, article 107, VVR, 1993, No 24, article 270, VVR, 1996, No 41, article 192, VVR, 2002, No 35, article 259, VVR, 2004, No 17-18, article 250, VVR, 2004, No 25, article 346, VVR, 2004, No 29, article 368):

To delete the first and second paragraph of Article 12;

To put the first part of Article 15 in the following edition:

“Special kinds of duty are collected on the base of decisions on appliance of antidumping or compensating measures accepted according to the Law of Ukraine “On protection of national commodity producer from dumping import” and “On protection of national commodity producer from subsidized import”.

To stop the validity of the Law of Ukraine “On appliance of special measures concerning import to Ukraine” (Vidomosti Verkhovnoji Rady Ukrainy of Ukraine (VVR), 1999, No 11, article 78, VVR, 2000, No 24, article 186, VVR, 2003, No 26, article 193, VVR, 2003, No 37, article 300) in the part of appliance of special duty as preliminary special measures and establishment of special duty as for import to Ukraine, which is an object of special investigation.

3. The Cabinet of Ministers of Ukraine within six months from the day of coming into effect of the given Law should:

- submit for the consideration of Verkhovna Rada (Parliament) of Ukraine proposals concerning the bringing of legislative acts of Ukraine in compliance with the given Law;

- bring its normative-legal acts in compliance with the given Law;

- ensure the review and revocation by the Ministries and other central executive power authorities of their normative-legal acts that contradict to the given Law.